

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:** B-216671.2

**DATE:** December 4, 1984

**MATTER OF:** Scott Fischman Company--Request for  
Reconsideration

**DIGEST:**

GAO will deny a request for reconsideration where no new facts or legal arguments are raised which show that a prior decision was erroneous.

Scott Fischman Company requests reconsideration of our decision in Scott Fishman Company, B-216671, Oct. 19, 1984, 84-2 CPD ¶ \_\_\_, dismissing a protest against the award of a contract under solicitation No. GS-03F-40156, issued by the General Services Administration. We deny the request for reconsideration.

The solicitation called for the installation of a card access and alarm system in a federal office building in Baltimore, Maryland. In our prior decision we declined to consider Scott Fischman's protest that GSA's specifications were unduly restrictive because the protest had not been filed before the time set for receipt of initial proposals. In its reconsideration request, the protester contends that it did not have a reasonable opportunity to protest before this deadline.

The solicitation was issued August 27, 1984 and notice of it was published in the Commerce Business Daily (CBD) on September 15, 1984. The closing date for receipt of proposals was published in the CBD as September 16 but was twice extended by amendment, first until September 21, and then until September 28. Scott Fischman argues that it should have been given additional time to inspect the contract site and discover that the specifications were "ambiguous, improper, and illegal."

While our Bid Protest Procedures generally envision consideration of protests when they are filed with our Office or the contracting agency within 10 working days after the basis for them is known or should have been

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known, whichever is earlier, 4 C.F.R. § 21.2(a) (1984), if the protest concerns an alleged impropriety in a solicitation, it must be filed before bid opening or the time set for receipt of initial proposals. 4 C.F.R. § 21.2(b)(1).

As noted above, the solicitation was published in the September 15, 1984 issue of the CBD. The protester states that upon its receipt of that CBD issue on September 19, it contacted the contracting officer, learned that the closing date had been extended to September 21, arranged for special messenger pickup of the solicitation, and submitted its proposal on September 21. Subsequently, on September 26, Scott Fischman learned that the closing date had been extended to September 28. According to the protester, its technicians then visited the work site and discovered that the specifications were defective.

We remain of the view that the protest is untimely. The protester obviously had an opportunity to file a protest with either the agency (which would have accepted an oral protest, see Federal Acquisition Regulation, § 14.407-8, 48 Fed. Reg. 42102, 42183 (to be codified at 48 C.F.R. § 14.407-8)) or this Office prior to the time set for closing on September 28. The protester did not do so, however, and has offered no explanation as to why it could not have done so. Therefore, as our prior decision held, Scott Fischman's protest of the specifications, filed on October 3, 1984, is untimely.

Scott Fischman further contends that even if its protest is untimely, it should be considered under our "significant issue" exception. In order to invoke this exception, the subject matter of the protest not only must evidence a matter of widespread interest or importance to the procurement community, but also must involve a matter that has not been considered on the merits in previous decisions. Sequoia Pacific Corp., B-199583, Jan. 7, 1981, 81-1 CPD ¶ 13. We construe this exception strictly and use it sparingly to prevent our timeliness rules from being rendered meaningless. The protest here does not fall within the exception, since the issue of allegedly restrictive specifications has been the subject of a number of decisions, for example, Amray, Inc., B-208308, Jan. 17, 1983, 83-1 CPD ¶ 43.

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We deny the request for reconsideration.

*fa* *Milton F. Fowler*  
Comptroller General  
of the United States